



Barrick Gold of North America, Inc.
460 West 50 North, Suite 500
Salt Lake City, Utah 84101
Telephone: (801) 990-3900
www.barrick.com

VIA E-MAIL

John Heggeness
Nevada Division of Environmental Protection
Bureau of Water Quality Planning
901 S. Stewart Street
Carson City, NV 89701

Re: Comments of Barrick Goldstrike Mines, Inc. on the Draft Nevada 2012 Integrated Report

Dear Mr. Heggeness:

Barrick Goldstrike Mines, Inc. ("Barrick") respectfully submits the following comments on the Nevada Division of Environmental Protection's ("NDEP") Draft 2012 Integrated Report ("Draft IR"). While Barrick appreciates the substantial investment of time and resources NDEP has expended in preparing the Draft IR, Barrick is concerned about the Draft IR's treatment of Boulder, Bell, Brush, and Rodeo Creeks. These ephemeral drainages run for several miles in proximity to Barrick's operations and dissipate at Boulder Flats without connecting to any other body of surface water – including the Humboldt River. Accordingly, these non-jurisdictional waters are not subject to regulation under the Clean Water Act ("CWA") and are not required to be included in Nevada's submission to EPA under sections 303(d) and 305.

Barrick is concerned that the inclusion of Boulder, Bell, Brush, and Rodeo Creeks, which the CWA does not require be included in Nevada's submission to EPA under sections 303(d) and 305(b), creates unnecessary confusion and regulatory uncertainty. Specifically, NDEP's inclusion of Boulder and Rodeo Creeks, which are intimately associated with Barrick's Goldstrike facility, on the 303(d) list of impaired waters is of particular concern to Barrick as the Army Corps of Engineers ("Corps") has previously determined these to be non-jurisdictional. The 303(d) list is submitted to provide EPA a list of those waters for which the CWA requires TMDLs be promulgated. Because the CWA does not provide for the promulgation of TMDLs for non-jurisdictional waters such as Boulder and Rodeo Creeks, NDEP's inclusion of them risks significant and unnecessary confusion among regulators, the public and regulated entities regarding the status of Boulder and Rodeo Creeks.

Moreover, the Draft IR inappropriately uses the Tributary Rule to apply numeric water quality criteria promulgated for the Humboldt River to assess the water quality of Boulder, Bell, Brush and Rodeo Creeks. The Tributary Rule allows NDEP to use water quality criteria promulgated for certain waters or stretches of water to assess upstream waters for which specific

water quality criteria do not exist. The reach of the Tributary Rule is limited and does not allow NDEP to apply water quality criteria to a water with no hydrologic connection to the water for which the standard was promulgated. However, that is exactly what NDEP has done with regard to Boulder, Bell, Brush, and Rodeo Creeks. Despite the demonstrated lack of a hydrologic connection between these waters and the Humboldt River, NDEP improperly assessed Boulder, Bell, Brush, and Rodeo Creeks against water quality criteria promulgated for the Humboldt River. This inappropriate application of the Tributary Rule resulted in the inclusion of Boulder and Rodeo Creeks on the 303(d) list of impaired waters based on criteria that are inapplicable to them.

For these reasons, as detailed further below, Barrick respectfully requests that NDEP reconsider its inclusion of non-jurisdictional waters such as Boulder, Bell, Brush, and Rodeo Creeks in its submissions to EPA under CWA sections 303(d) and 305. Moreover, if NDEP chooses to include these waters in its submissions to EPA, Barrick requests that NDEP remove Boulder and Rodeo Creeks from the 303(d) list of impaired water because the water quality criteria allegedly not being met are not applicable to Boulder and Rodeo Creeks.

In addition to its concerns regarding the inclusion and treatment of non-jurisdictional waters in the Draft IR, Barrick disagrees with NDEP's 303(d) listing of the Humboldt River for not meeting the applicable manganese criteria for irrigation between Palisade and Battle Mountain. The data used to support this determination is insufficient to support the proposed impairment determination and NDEP should remove it from the 303(d) list it submits to EPA.

I. NDEP Should Limit The Waters Included In The Integrated Report Submitted To EPA To Those Waters Required To Be Included By the CWA.

The CWA requires each state to submit, biennially, to EPA a "description of the water quality of all navigable waters in such State during the preceding year ..." and to identify, among those waters, waters "for which [] effluent limitations [] are not stringent enough to implement any water quality standard applicable to such waters." 33 U.S.C. §§ 1313(d)(1)(a). By its own terms, the CWA only requires States to submit the information required by sections 303(d) and 305 for waters that meet the CWA jurisdictional definition of "waters of the United States." *See Id.* at § 1362(7).

Boulder, Brush, Bell, and Rodeo Creeks do not meet the definition of jurisdictional waters and are not required to be included in Nevada's submission to EPA. In 2006, the Corps issued a jurisdictional determination finding that Boulder, Bell, Brush and Rodeo Creeks are "intrastate isolated waters with no apparent interstate or foreign commerce connection." *See* Letter from Kevin Roukey, U.S. Army Corps of Engineers, to Dan Anderson, Barrick Goldstrike, dated Nov. 20, 2006) (Attachment A). This determination was re-affirmed by the Corps in 2011. *See* Letter from Kristine Hansen, U.S. Army Corps of Engineers, to Joe Giraudo, Barrick Goldstrike Mines, Inc., dated Nov. 17, 2011 (Attachment B). While these jurisdictional determinations specifically disclaim the Corps' regulatory authority over Boulder, Bell, Brush, and Rodeo Creeks under CWA section 404, the jurisdictional analysis under sections 303(d) and 305 is identical to section 404 analysis.

The waters required to be included in a state's submission under CWA section 305 are expressly limited to "navigable waters" which are defined by the CWA as the "waters of the United States." 33 U.S.C. § 1362(7). Similarly, although not expressly stated, the waters to be included in a state's 303(d) submission are also limited to navigable waters. CWA section 303(d) requires states to identify those waters for which "effluent limitations ... are not stringent enough to meet any water quality standard applicable to such waters." *Id.* at 1313(d)(1)(a). The CWA only provides for the promulgation of effluent limitations and water quality standards for navigable waters. *See id.* at 1311(a) and 1313(a)(2)(A). Accordingly, the 303(d) list need only include navigable waters.

As the U.S. Supreme Court has established in a series of cases culminating in *Rapanos v. United States*, the definition of navigable waters for purposes of the CWA is broader than the traditional navigability test and includes waters that are not navigable-in-fact so long as the non-navigable water has a sufficient connection to a navigable-in-fact water. 547 U.S. 715 (2006). In *Rapanos* a majority of the Court failed to agree on the appropriate test for how much of a connection to a navigable-in-fact water is necessary to establish jurisdiction under the CWA. Under the test offered by Justice Scalia, a water must have a "continuous surface connection" to a traditional navigable-in-fact water for CWA jurisdiction to attach. Under the test offered by Justice Kennedy a continuous surface connection is not required and a water is subject to CWA jurisdiction if it has a "significant nexus" to a traditional navigable-in-fact water. *See id.* at 757 and 87.

As the Corps' post-*Rapanos* non-jurisdictional determinations confirm, Boulder, Bell, Brush, and Rodeo Creeks are non-jurisdictional under either test. First, Boulder, Bell, Brush and Rodeo Creeks have no continuous surface connection with a navigable-in-fact water. Bell, Brush and Rodeo Creeks all converge into Boulder Creek, which dissipates upon reaching Boulder Flats. Figure 4 in the Corps' 2011 determination clearly depict the terminus of Boulder Creek miles from any navigable-in-fact water. *See* Attachment B, Figure 4.

Second, and more importantly, Boulder, Bell, Brush, and Rodeo Creeks are also non-jurisdictional under the more stringent "significant nexus" test. The Corps' 2011 determination explicitly states that "the waters identified as Boulder, Bell, South Bell, Brush and Rodeo Creeks on the referenced drawings have no significant nexus to Rye Patch Reservoir (the nearest Traditional Navigable Water, Navigable in Fact)." *See* Attachment B at 1. This conclusion was examined in depth and confirmed by NDEP in responding to comments of Great Basin Resource Watch ("GBRW") regarding Water Pollution Control Permit NEV0095114. GBRW had commented that it was concerned that contaminants in water infiltrating in Boulder Flats could travel through the groundwater aquifer and discharge into the Humboldt River. In response, NDEP stated that infiltration in Boulder Flats "will not discharge to the Humboldt River." *Notice of Decision*, Water Pollution Control Permit NEV0095114 (May 5, 2008) (Attachment C). NDEP explained the basis for its conclusion by pointing out that the Humboldt River is "a losing stream over this reach" and that the local groundwater gradient prevents subsurface migration from Boulder Flats to the Humboldt. *Id.* Accordingly, as NDEP has already determined, no hydrologic connection exists between Boulder, Bell, Brush, and Rodeo Creeks and the Humboldt River, and Boulder, Bell, Brush and Rodeo Creeks are not required to be included in Nevada's submission to EPA under CWA sections 305 and 303(d).

Although EPA has indicated that over-inclusiveness will generally not be considered grounds for disapproving a state's 305 and 303(d) submissions, sound policy reasons support limiting Nevada's submissions to only those waters required to be included by the CWA. See EPA, *Recommended Framework for EPA Approval Decisions on 2002 State Section 303(d) List Submissions* (May 20, 2002). Including waters such as Boulder, Bell, Brush, and Rodeo Creeks risk confusion among regulators, regulated entities and the general public.

In the Introduction to the Draft IR, NDEP makes clear that the Integrated Report is primarily developed to comply with the requirements of CWA sections 303(d) and 305, and notes that it is developed for "use by the public, other entities, and for NDEP water quality management planning purposes." See Draft IR at 1. By including non-jurisdictional waters in the Integrated Report, the primary stated purpose of which is compliance with the CWA, NDEP creates the perception that these waters are subject to CWA regulation when, in fact, they are not. This misperception creates unwarranted confusion regarding the regulatory status of these waters and the actions NDEP is required to take regarding them.

The risk of confusion is even greater with NDEP's inclusion of both Boulder and Rodeo Creeks in the 303(d) list of impaired waters. Under CWA section 303(d)(1)(c), states are required to promulgate total maximum daily loads (TMDLs) for waters on this list and rank the priority of each water on the list for promulgation of TMDLs, but the CWA does not provide for TMDLs to be promulgated for non-jurisdictional waters such as Boulder and Rodeo Creeks. Accordingly, the inclusion of non-jurisdictional waters such as Boulder and Rodeo Creeks in the 303(d) list creates additional confusion regarding Nevada's TMDL program and an unnecessary public perception that NDEP is not adequately addressing water quality issues in the state. This risk of confusion is unwarranted and NDEP should not include waters that the CWA does not require be included in the Integrated Report submitted to EPA.

II. NDEP Inappropriately Uses Water Quality Criteria Promulgated for the Humboldt River To Assess Boulder, Bell, Brush, and Rodeo Creeks

Barrick also objects to NDEP's use of water quality standards promulgated for the Humboldt River to assess Boulder, Bell, Brush, and Rodeo Creeks. In the Draft IR, NDEP lists NAC 445A.1442 as the basis of its evaluation of these waters. NAC 445A.1442 provides water quality criteria for the "Humboldt River from the Palisade Gage to the Battle Mountain Gage." Pursuant to the Tributary Rule these criteria "apply to all surface waters of Nevada in the watershed upstream from the control point or to the next upstream control point or to the next water named in NAC 445A.123 to 445A.2234, inclusive." NAC 445A.1239. However, as NDEP has acknowledged, the Tributary Rule is only appropriate for tributaries – waters with a demonstrated hydrologic connection with the water for which the standard or criteria were promulgated.

As discussed above, Boulder, Bell, Brush, and Rodeo Creeks have no hydrologic connection to the Humboldt River and use of the Tributary Rule to apply water quality criteria for the Humboldt River to these waters is therefore inappropriate. Specifically, the Draft IR includes Boulder and Rodeo Creeks on the 303(d) list of impaired waters for non-compliance with specific numeric criteria contained in NAC 445A.1442. Because these criteria are not

appropriately applied to Boulder and Rodeo Creeks, NDEP's inclusion of these waters on the 303(d) list is in error.

In establishing the proper regulatory classification of waters to which the Tributary Rule applies, NDEP explicitly determined that undesignated waters that do not flow into a designated water are classified as having no beneficial use. In the Draft IR, NDEP states that "[t]here are waterbodies in the state that do not have specific uses and standards assigned, and are not a tributary to waters that do... [t]he tributary rule does not apply and these waters are categorized as having no designated beneficial uses." Draft IR at 10. Accordingly, even if NDEP discounts the public policy reasons for omitting non-jurisdictional waters from its 305 and 303(d) submissions to EPA, Barrick requests that Boulder, Bell, Brush, and Rodeo Creeks be reclassified as having no designated beneficial uses and that Boulder and Rodeo Creeks be removed from the 303(d) list of impaired waters.

III. NDEP Should Not Include The Humboldt River Between Palisade and Battle Mountain For Manganese In Its 303(d) List.

In the Draft IR, NDEP has added the Humboldt River between Palisade and Battle Mountain to the 303(d) list of impaired waters for not meeting the manganese water quality criterion established for irrigation uses of 200 ug/L. Of the 20 samples evaluated along this stretch of the Humboldt River, only four samples – three collected on February 21, 2007 and one collected on February 23, 2007 – exceeded 200 ug/L manganese. Notably, all of the samples actually taken during irrigation season showed levels of manganese in this stretch of the Humboldt River well below 50 ug/L. The data NDEP is relying on as the basis for this listing is insufficient to support a 303(d) listing.

NDEP's stated policy is to presume that a use is fully supported and to require "adequate data to refute that presumption." Draft IR at 15. The Draft IR includes a table showing the minimum number of exceedances required for a determination that a use is not supported for different sample sizes using the binomial method – for a sample size between 19 and 25, the table indicates that a minimum of four exceedances is required for NDEP to consider a use not supported. *Id.* at 17. However, the simple fact that the minimum number of exceedances exist does not require NDEP to determine that a use is not supported. NDEP should also consider the circumstances of the sampling and exceedances in determining whether the bare minimum number of exceedances is truly sufficient to demonstrate that a use is not supported.

When the circumstances of the sampling for the manganese listing for the Humboldt River between Palisade and Battle Mountain are evaluated it becomes clear that the four exceedances are insufficient to establish that irrigation is not supported. Three of the four samples that exceeded 200 ug/L were taken on February 21, 2007 and the other one was taken on February 23, 2007. The manganese results from this sampling event are significantly higher than the results from any other sampling event in the five-year period evaluated. While the underlying lab reports and supporting documentation have not been provided, it is reasonable to question whether sampling or lab error may be influencing these results. Further supporting the likelihood of a lab error is the fact that a manganese sample also taken on February 23, 2007, from the Emigrant Spring Drainage, had a manganese result of 219 ug/L and the next highest

concentration in the 12 samples taken at that station was 33 ug/L. These facts clearly support the likelihood that some issue exists with the February 2007 sampling.

Moreover, NDEP should not rely on four exceedances from sampling conducted in the dead of winter to establish that irrigation is not supported on the Humboldt between Palisade and Battle Mountain. The four samples that contained greater than 200 ug/L manganese were all taken in late February of 2007; however, all of the samples actually taken during irrigation season show concentrations of manganese well below 200 ug/L – in most cases manganese was present below 50 ug/L.

Understanding this context for the manganese data for the Humboldt River between Palisades and Battle Mountain establishes that the beneficial use of the Humboldt River between Palisade and Battle Mountain for irrigation is, in fact, supported. At the very least, the context of this data shows that insufficient data exists to make an impairment determination with regard to the manganese water quality criterion established for irrigation. NDEP should therefore revise its determination and remove the listing from the 303(d) list it submits to EPA.

* * *

Barrick appreciates the opportunity to provide the above comments on the Draft IR, and looks forward to working with NDEP to resolve the issues raised above. If you have any questions or would like to discuss these issues further please don't hesitate to contact Melissa Barbanell at 801-990-3815.

Sincerely,



Melissa Barbanell

ATTACHMENT A



REPLY TO
ATTENTION OF

DEPARTMENT OF THE ARMY
U.S. ARMY ENGINEER DISTRICT, SACRAMENTO
CORPS OF ENGINEERS
1325 J STREET
SACRAMENTO, CALIFORNIA 95811-9922

November 20, 2006

Regulatory Branch (200025139)

Dan Anderson
Barrick Goldstrike
P.O. Box 29
Elko, Nevada 89803-0029



Dear Mr. Anderson:

We are responding to your request for an approved jurisdictional determination for the Barrick Goldstrike Rodeo Creek Diversion site. This approximately 11.5 miles survey area is located on or near Rodeo Creek in Section 24, Township 36 North, Range 49 East, MDB&M, Latitude 40° 59' 2.87", Longitude 116° 20' 3.54", Elko County, Nevada.

Based on available information, we concur with the estimate of waters of the United States, as depicted in the 2006 Boulder Creek Jurisdictional Status Review, dated July 18, 2006, prepared by JBR Environmental Consultants Inc. The 11.5 miles of waters within the survey area identified are as Bolder Creek, Bell Creek, Brush Creek, and Rodeo Creek. These waters are intrastate isolated waters with no apparent interstate or foreign commerce connection. As such, these waters are not currently regulated by the Corps of Engineers. This disclaimer of jurisdiction is only for Section 404 of the Federal Clean Water Act. Other Federal, State, and local laws may apply to your activities. In particular, you may need authorization from the Nevada Division of Environmental Protection, the Division of Water Resources, the U.S. Fish and Wildlife Service, and U.S. Bureau of Land Management.

This verification is valid for five years from the date of this letter, unless new information warrants revision of the determination before the expiration date. This letter contains an approved jurisdictional determination for your subject site. If you object to this determination, you may request an administrative appeal under Corps regulations at 33 CFR Part 331. Enclosed you will find a Notification of Appeal Process (NAP) fact sheet and Request for Appeal (RFA) form. If you request to appeal this determination you must submit a completed RFA form to the South Pacific Division Office at the following address: Doug Pomeroy, Administrative Appeal Review Officer, Army Corps of Engineers, South Pacific Division, CESPD-PDS-O, 333 Market Street, Room 923, San Francisco, California 94105-2195, Telephone: 415-977-8035 FAX: 415-977-8129.

In order for an RFA to be accepted by the Corps, the Corps must determine that it is complete, that it meets the criteria for appeal under 33 CFR Part 331.5, and that it has been received by the Division Office within 60 days of the NAP. Should you decide to submit an RFA form, it must be received at the above address by January 19, 2007. It is not necessary to submit an RFA form to the Division Office if you do not object to the determination in this letter.

You should provide a copy of this letter and notice to all other affected parties, including any individual who has an identifiable and substantial legal interest in the property.

This determination has been conducted to identify the limits of Corps of Engineers' Clean Water Act jurisdiction for the particular site identified in this request. This determination may not be valid for the wetland conservation provisions of the Food Security Act of 1985. If you or your tenant are USDA program participants, or anticipate participation in USDA programs, you should request a certified wetland determination from the local office of the Natural Resources Conservation Service, prior to starting work.

Please refer to identification number 200025139 in any correspondence concerning this project. If you have any questions, please contact Kevin J. Roukey at our Nevada Regulatory Office, C. Clifton Young Federal Building, 300 Booth Street, Room 2103, Reno, Nevada 89509-1361, email Kevin.J.Roukey@usace.army.mil, or telephone 916-557-5266. You may also use our website: www.spk.usace.army.mil/regulatory.html.

Sincerely,



Kevin J. Roukey
Per Chief, Central California/Nevada
Section

Enclosure(s)

Copy furnished without enclosure(s):

Glen Gentry, Nevada Division of Environmental Protection, Bureau of Water Quality
Planning, 901 South Stewart Street, Suite 4001, Carson City, Nevada 89701-5249
U.S. Fish and Wildlife Service, Reno Fish and Wildlife Office, 1340 Financial Boulevard,
Suite 234, Reno, Nevada 89502-7147
Catherine Clark, JBR Environmental, 5355 Kietzke Lane, Suite 100, Reno, Nevada
89511-4002

ATTACHMENT B



REPLY TO
ATTENTION OF

DEPARTMENT OF THE ARMY
U.S. ARMY ENGINEER DISTRICT, SACRAMENTO
CORPS OF ENGINEERS
1325 J STREET
SACRAMENTO CA 95814-2922

SOURCE/LEGAL DOCUMENTS

RECEIVED

NOV 28 2011

November 17, 2011

Regulatory Division (SPK-2000-25139)

**Environmental Division
Barrick Goldstrike**

Mr. Joe Giraudo
Barrick Goldstrike Mines, Inc.
Post Office Box 29
Elko, Nevada 89803-0029

Dear Mr. Giraudo:

We are responding to your May 13, 2011, request for an approved jurisdictional determination for the Barrick Goldstrike Mine project. The approximately 10,213-acre site is located in or near Boulder, Bell, South Bell, Brush and Rodeo Creeks, Section 33, Township 37 North, Range 49 East, Mount Diablo Meridian, Latitude 41.0312°, Longitude -116.4329°, near Carlin, Eureka and Elko Counties, Nevada.

Based on available information, we concur with the estimate of waters of the United States, as depicted on the May, 13, 2011, *Barrick Goldstrike Mines, Inc. JD Re-Verification* drawings prepared by JBR Environmental Consultants, Inc. The waters identified as "Boulder, Bell, South Bell, Brush and Rodeo Creeks" on the referenced drawings have no significant nexus to Rye Patch Reservoir (the nearest Traditional Navigable Water, Navigable In Fact) and are intrastate isolated waters with no apparent interstate or foreign commerce connection. As such, this water is not currently regulated by the U.S. Army Corps of Engineers (Corps). This disclaimer of jurisdiction is only for Section 404 of the Federal Clean Water Act. Other Federal, State, and local laws may apply to your activities. In particular, you may need authorization from the Nevada Division of Environmental Protection and/or the U.S. Fish and Wildlife Service.

This verification is valid for five years from the date of this letter, unless new information warrants revision of the determination before the expiration date. This letter contains an approved jurisdictional determination for your subject site. If you object to this determination, you may request an administrative appeal under Corps regulations at 33 CFR Part 331.

A Notification of Appeal Process (NAP) and Request for Appeal (RFA) form is enclosed. If you request to appeal this determination you must submit a completed RFA form to the South Pacific Division Office at the following address: Administrative Appeal Review Officer, Army Corps of Engineers, South Pacific Division, CESPDPDS-O, 1455 Market Street, San Francisco, California 94103-1399, Telephone: 415-503-6574, FAX: 415-503-6646.

In order for an RFA to be accepted by the Corps, the Corps must determine that it is complete, that it meets the criteria for appeal under 33 CFR Part 331.5, and that it has been received by the Division Office within 60 days of the NAP. Should you decide to submit an RFA form, it must be received at the above address by 60 days from the date of this letter. It is not necessary to submit an RFA form to the Division Office if you do not object to the determination in this letter.

You should provide a copy of this letter and notice to all other affected parties, including any individual who has an identifiable and substantial legal interest in the property.

This determination has been conducted to identify the limits of Corps' Clean Water Act jurisdiction for the particular site identified in this request. This determination may not be valid for the wetland conservation provisions of the Food Security Act of 1985. If you or your tenant are USDA program participants, or anticipate participation in USDA programs, you should request a certified wetland determination from the local office of the Natural Resources Conservation Service prior to starting work.

We appreciate your feedback. At your earliest convenience, please tell us how we are doing by completing the customer survey on our website under *Customer Service Survey*.

Please refer to identification number SPK-2000-25139 in any correspondence concerning this project. If you have any questions, please contact me at our Reno Regulatory Field Office, 300 Booth Street, Room 3060, Reno, Nevada 89509, email Kristine.S.Hansen@usace.army.mil, or telephone 775-784-5307. For more information regarding our program, please visit our website at www.spk.usace.army.mil/regulatory.html.

Sincerely,



Kristine S. Hansen
Senior Project Manager, Reno Field Office
Sacramento District

Enclosures

Copy furnished with drawings:

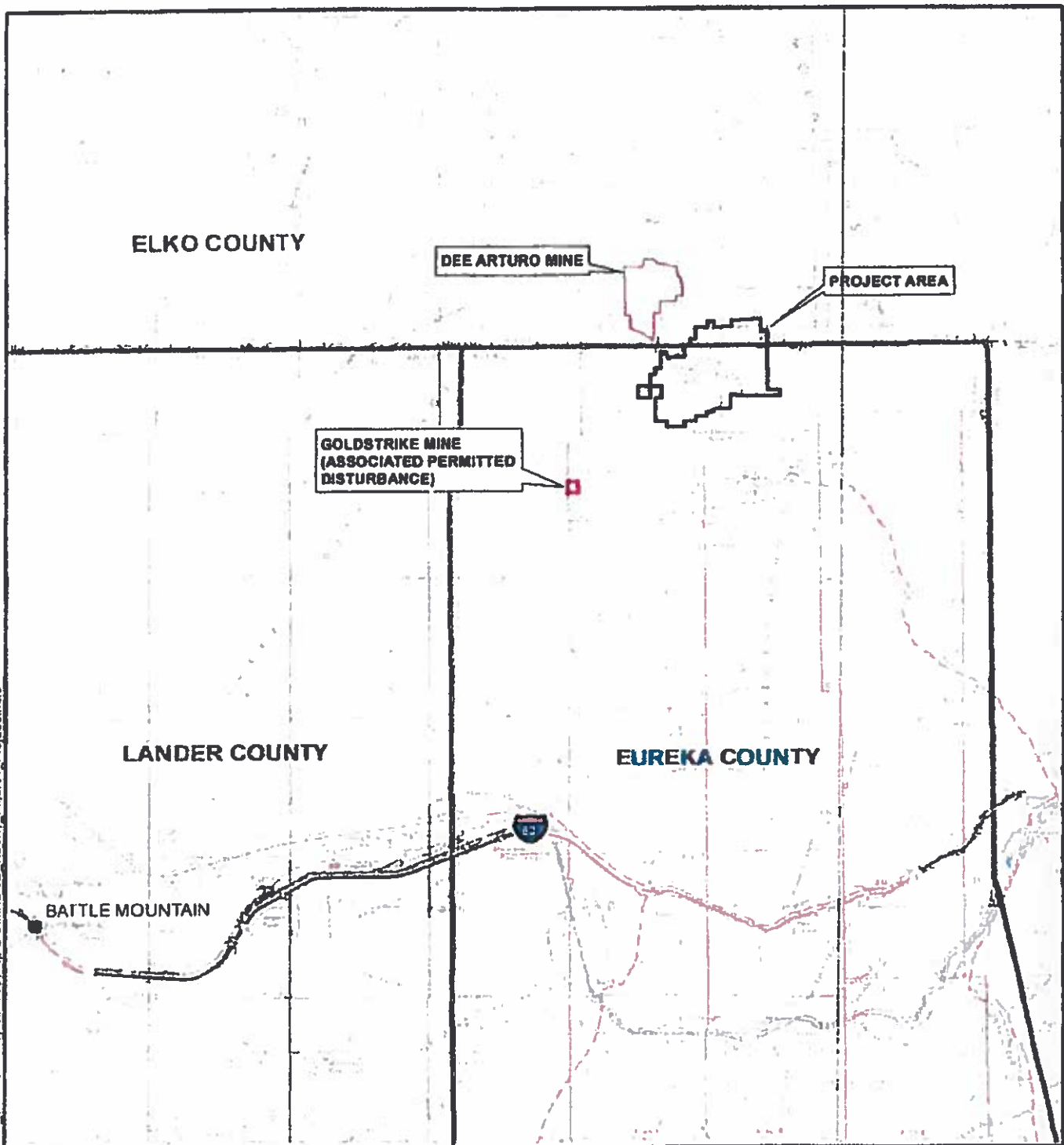
Wetland Section Chief (W-8), United States Environmental Protection Agency,
75 Hawthorne Street, San Francisco, California 94105

Edward D. Koch, Field Supervisor, U.S. Fish and Wildlife Service, Nevada Fish and Wildlife
Office, 1340 Financial Boulevard, Suite 234, Reno, Nevada 89502-7147

Ms. Jean Stone, Nevada Division of Environmental Protection, Bureau of Water Quality and
Planning, 901 South Stewart Street, Suite 4001, Carson City, Nevada 89701-5249

Mr. Jeryl Gardner, Nevada Division of Environmental Protection, Bureau of Water Quality and
Planning, 901 South Stewart Street, Suite 4001, Carson City, Nevada 89701-5249

File Path: P:\Clients\2011\Clients\B.A11137.00 Boulder Valley JD\Map\mptGIS\MKDUD_RchVty_Figure1_ProjLoc.mxd



BASE MAP USGS 250K QUADRANGLE



PROJECT AREA



BARRICK GOLDSTRIKE MINES, INC.
JD RE-VERIFICATION

FIGURE 1
PROJECT LOCATION MAP



PROJECT
BY

GU

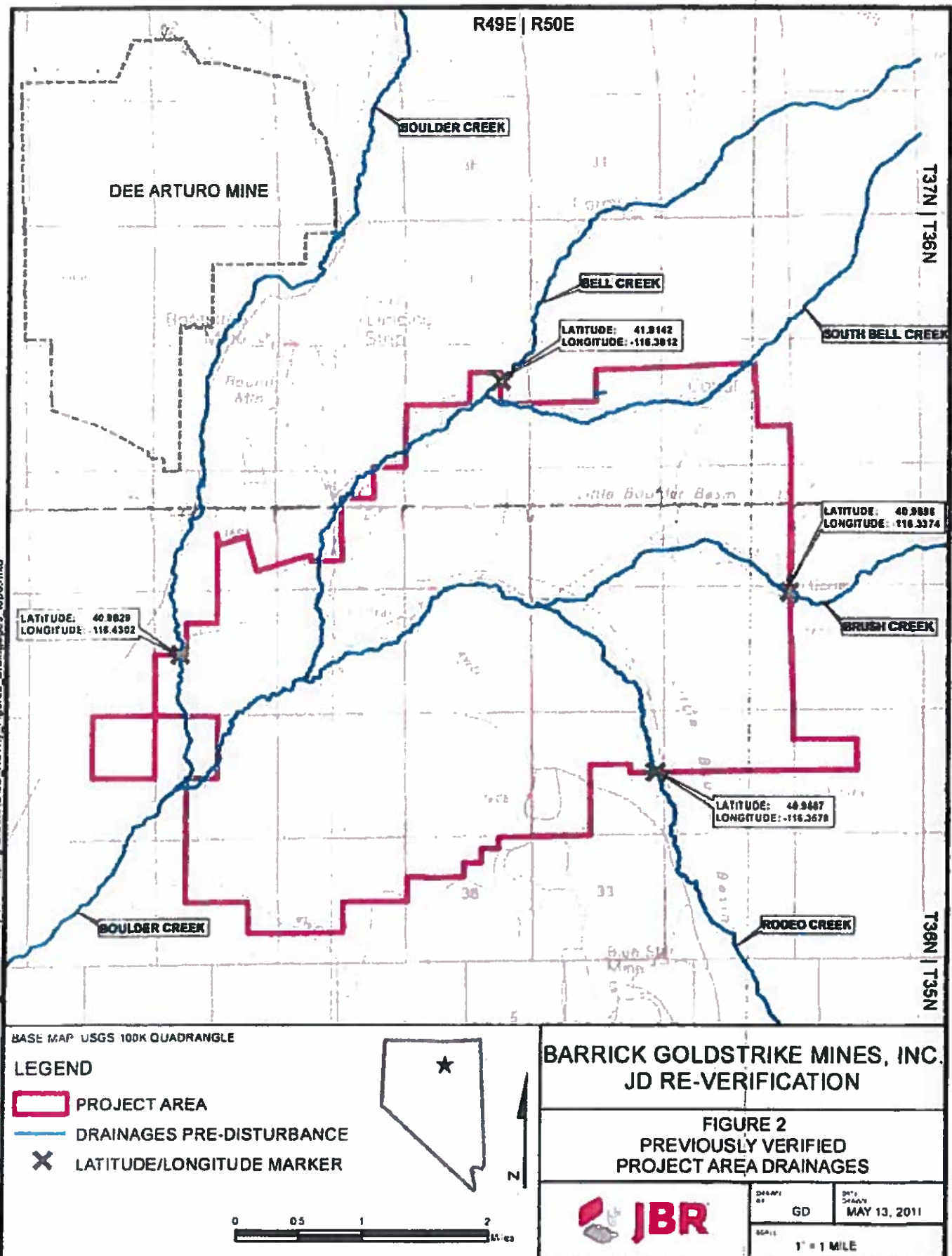
DATE
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MAY 13, 2011

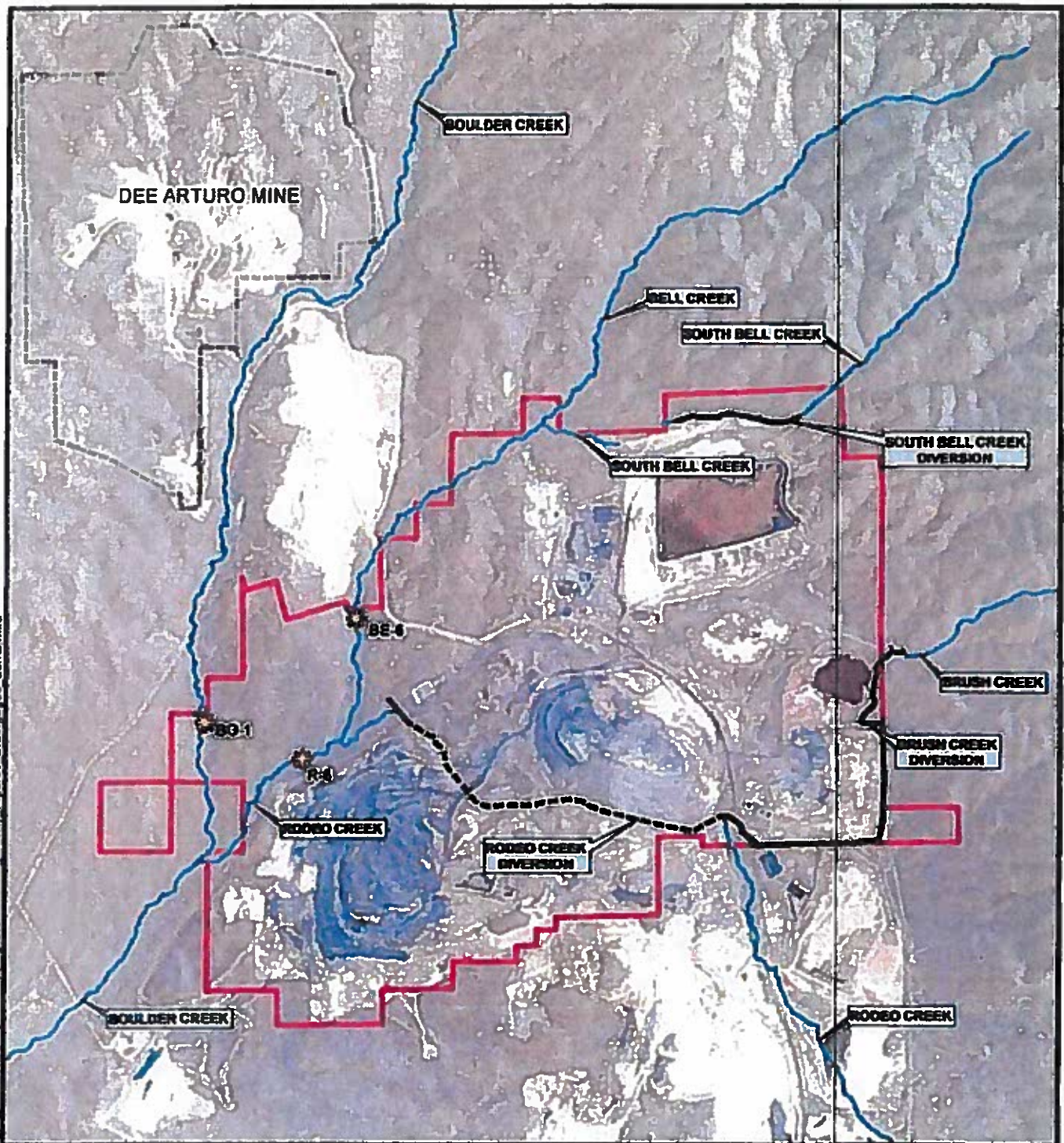
SCALE

1" = 6 MILES

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BASE MAP ESRI WORLD IMAGERY

LEGEND

- PROJECT AREA
- DRAINAGES POST-DISTURBANCE
- DIVERSION CHANNELS AND DITCHES
- DIVERSION PIPELINE
- OHWM DATASHEET SITE



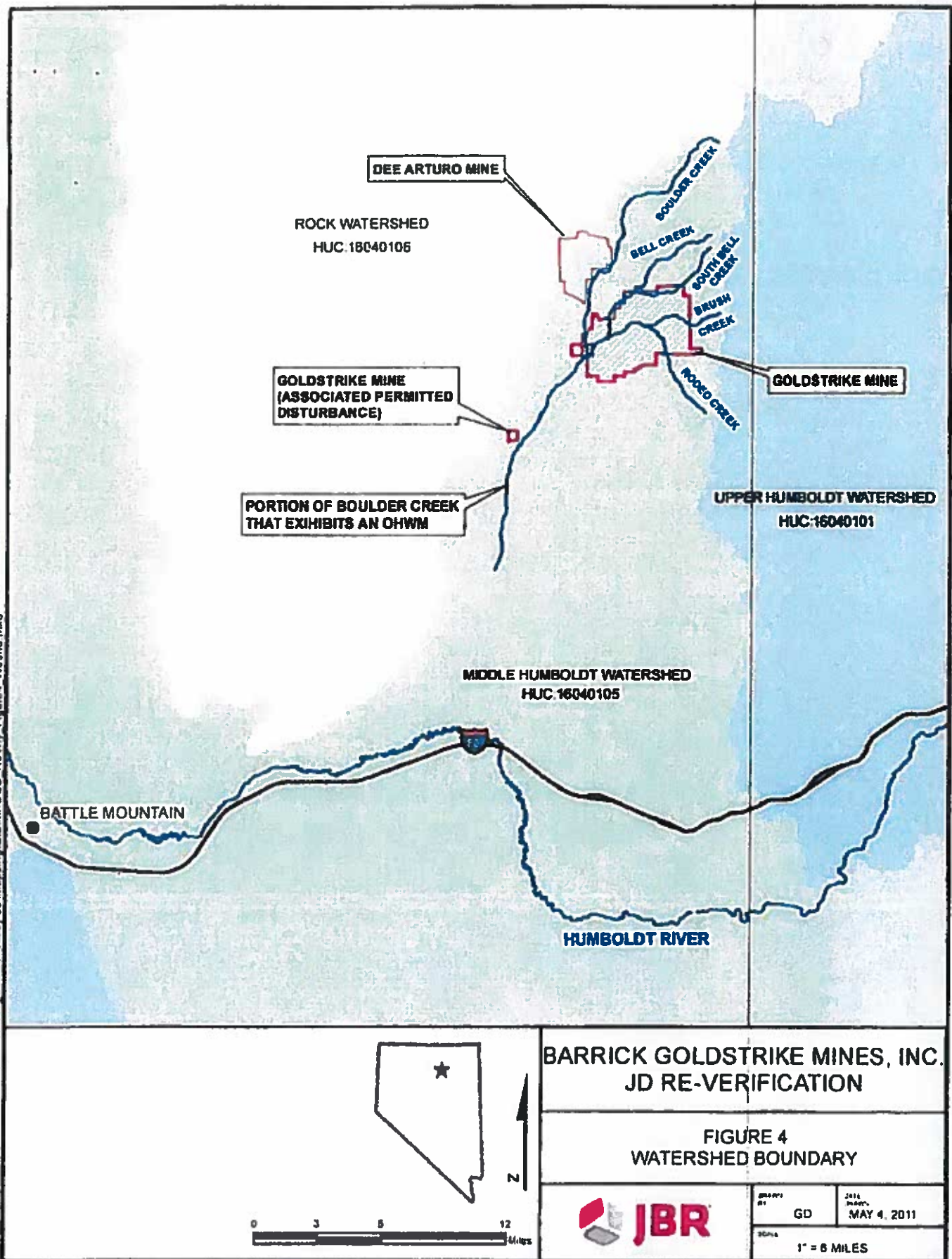
BARRICK GOLDSTRIKE MINES, INC.
JD RE-VERIFICATION

FIGURE 3
CURRENT PROJECT AREA DRAINAGES



DRAWN BY	DATE
GD	MAY 13, 2011
SCALE	
1" = 1 MILE	

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NOTIFICATION OF ADMINISTRATIVE APPEAL OPTIONS AND PROCESS AND REQUEST FOR APPEAL

Applicant: Barrick Goldstrike		File No.: SPK-2000-25139	Date: November 17, 2011
Attached is:			See Section below
	INITIAL PROFFERED PERMIT (Standard Permit or Letter of permission)	A	
	PROFFERED PERMIT (Standard Permit or Letter of permission)	B	
	PERMIT DENIAL	C	
X	APPROVED JURISDICTIONAL DETERMINATION	D	
	PRELIMINARY JURISDICTIONAL DETERMINATION	E	

SECTION I - The following identifies your rights and options regarding an administrative appeal of the above decision. Additional information may be found at <http://www.usace.army.mil/inet/functions/cw/cecwo/reg> or Corps regulations at 33 CFR Part 331.

A: INITIAL PROFFERED PERMIT: You may accept or object to the permit.

- **ACCEPT:** If you received a Standard Permit, you may sign the permit document and return it to the district engineer for final authorization. If you received a Letter of Permission (LOP), you may accept the LOP and your work is authorized. Your signature on the Standard Permit or acceptance of the LOP means that you accept the permit in its entirety, and waive all rights to appeal the permit, including its terms and conditions, and approved jurisdictional determinations associated with the permit.
- **OBJECT:** If you object to the permit (Standard or LOP) because of certain terms and conditions therein, you may request that the permit be modified accordingly. You must complete Section II of this form and return the form to the district engineer. Your objections must be received by the district engineer within 60 days of the date of this notice, or you will forfeit your right to appeal the permit in the future. Upon receipt of your letter, the district engineer will evaluate your objections and may: (a) modify the permit to address all of your concerns, (b) modify the permit to address some of your objections, or (c) not modify the permit having determined that the permit should be issued as previously written. After evaluating your objections, the district engineer will send you a proffered permit for your reconsideration, as indicated in Section B below.

B: PROFFERED PERMIT: You may accept or appeal the permit

- **ACCEPT:** If you received a Standard Permit, you may sign the permit document and return it to the district engineer for final authorization. If you received a Letter of Permission (LOP), you may accept the LOP and your work is authorized. Your signature on the Standard Permit or acceptance of the LOP means that you accept the permit in its entirety, and waive all rights to appeal the permit, including its terms and conditions, and approved jurisdictional determinations associated with the permit.
- **APPEAL:** If you choose to decline the proffered permit (Standard or LOP) because of certain terms and conditions therein, you may appeal the declined permit under the Corps of Engineers Administrative Appeal Process by completing Section II of this form and sending the form to the division engineer (address on reverse). This form must be received by the division engineer within 60 days of the date of this notice.

C: PERMIT DENIAL: You may appeal the denial of a permit under the Corps of Engineers Administrative Appeal Process by completing Section II of this form and sending the form to the division engineer (address on reverse). This form must be received by the division engineer within 60 days of the date of this notice.

D: APPROVED JURISDICTIONAL DETERMINATION: You may accept or appeal the approved JD or provide new information.

- **ACCEPT:** You do not need to notify the Corps to accept an approved JD. Failure to notify the Corps within 60 days of the date of this notice, means that you accept the approved JD in its entirety, and waive all rights to appeal the approved JD.
- **APPEAL:** If you disagree with the approved JD, you may appeal the approved JD under the Corps of Engineers Administrative Appeal Process by completing Section II of this form and sending the form to the division engineer (address on reverse). This form must be received by the division engineer within 60 days of the date of this notice.

E: PRELIMINARY JURISDICTIONAL DETERMINATION: You do not need to respond to the Corps regarding the preliminary JD. The Preliminary JD is not appealable. If you wish, you may request an approved JD (which may be appealed), by contacting the Corps district for further instruction. Also you may provide new information for further consideration by the Corps to reevaluate the JD.

SECTION II - REQUEST FOR APPEAL or OBJECTIONS TO AN INITIAL PROFFERED PERMIT

REASONS FOR APPEAL OR OBJECTIONS: (Describe your reasons for appealing the decision or your objections to an initial proffered permit in clear concise statements. You may attach additional information to this form to clarify where your reasons or objections are addressed in the administrative record.)

ADDITIONAL INFORMATION: The appeal is limited to a review of the administrative record, the Corps memorandum for the record of the appeal conference or meeting, and any supplemental information that the review officer has determined is needed to clarify the administrative record. Neither the appellant nor the Corps may add new information or analyses to the record. However, you may provide additional information to clarify the location of information that is already in the administrative record.

POINT OF CONTACT FOR QUESTIONS OR INFORMATION:

If you have questions regarding this decision and/or the appeal process you may contact:

Kristine Hansen, Regulatory Project Manager
U.S. Army Corps of Engineers
Reno Regulatory Field Office
300 Booth Street, Room 3060
Reno, Nevada 89509
Phone: 775-784-5307, FAX 775-784-5606
Email: Kristine.S.Hansen@usace.army.mil
(Use this address for submittals to the district engineer)

If you only have questions regarding the appeal process you may also contact:

Thomas J. Cavanaugh
Administrative Appeal Review Officer
U.S. Army Corps of Engineers
1455 Market Street
San Francisco, California 94103-1399
Phone: 415-503-6574, FAX 415-503-6646
Email: Thomas.J.Cavanaugh@usace.army.mil
(Use this address for submittals to the division engineer)

RIGHT OF ENTRY: Your signature below grants the right of entry to Corps of Engineers personnel, and any government consultants, to conduct investigations of the project site during the course of the appeal process. You will be provided a 15 day notice of any site investigation, and will have the opportunity to participate in all site investigations.

Signature of appellant or agent.

Date:

Telephone number: